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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--|-------------|---------------------------|----------------------------|------------------------|
| 09/970,600   | 10/04/2001  | William H. Wisecarver III | 1480-R-00                  | 1951                   |
| 35811 7590 11/16/2007<br>IP GROUP OF DLA PIPER US LLP<br>ONE LIBERTY PLACE<br>1650 MARKET ST, SUITE 4900<br>PHILADELPHIA, PA 19103 |             |                           | EXAMINER<br>DASS, HARISH T |                        |
|  |             |                           | ART UNIT<br>3692           | PAPER NUMBER           |
|  |             |                           | MAIL DATE<br>11/16/2007    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/970,600 | <b>Applicant(s)</b><br>WISECARVER ET AL. |  |
|                              | <b>Examiner</b><br>Harish T. Dass    | <b>Art Unit</b><br>3692                  |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

"data account" and "executing" have not been described and/or disclosed in original specification. Applicant's remarks states that supports for these can be found on page 3. Examiner is unable to find support for these limitations, in case of "executing" examiner assumes applicant is referring to "performing procedures for on-line purchasing. "data account" is not disclosed and described in original specification. Applicant is asked to clearly show where the support for all these limitations can be found, please give the pages and lines and even be helpful to provide quotation from the passage that applicant/attorney thinks these are clearly defined/disclosed. The main reason examiner insist is that the invention should not be changed, without support in original specification, to overcome the prior art.

In response to this office action Attorney/Applicant should provide a written statement that no new matter is added. In event this new limitation(s) found to be not

supported by the "original specification", examiner will reject the claims again (see USC 112 1<sup>st</sup>).

### ***Claim Objections***

2. Claim 3 objected to under 37 CFR 1.75(c) as being in improper form because a dependent claim 3 depends on itself. See MPEP § 608.01(n). Accordingly, the claim 3 not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheong et al. (hereinafter Cheong – US 7,006,993) in view of Hutchison et al (hereinafter Hutchison – US 20050192896).

Re. Claim 1, Cheong discloses opening an account for online shopping [Abstract], and verifying electronically that the customer has an established credit card account [abstract; col. 9 lines 12-20 – see funding a surrogate account...], creating an electronic data account (account) [Abstract; col. 1 line 53 to col. 2 line 25]; authorizing an amount

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of credit within the financial account of limited access [Abstract; Figures 10, 14; col. 1 line 53 to col. 2 line 25, . executing a purchase transaction having a dollar amount within the established purchasing limit; after executing the purchase transaction, requesting funds from the customer's established credit card account and routing the funds to the merchant. Cheong does not explicitly disclose establishing (opening) a purchasing limit and storing the purchasing limit in the data account (account). However, credit card transaction is old and well-known, where the merchant forwards the customer receipt to merchant account bank with total collection amount and during the process the customer's available credit limit is reduced to new value. For example, a customer with outstanding purchasing limit of \$10,234.23 (max limit – total spending up to this point) charges another \$1000.00, the new limit is reduced to \$9234.23 (see any consumer's credit card statement), the merchant bank collect the money from credit card company less the credit card fee and forwards to merchant (deposit to merchant account) the collected amount less banks processing fees/commission.

Hutchison discloses establishing (opening) a purchasing limit and storing the purchasing limit in the data account (account) [abstract; para. 55, 65]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Cheong and include the above feature, as disclosed by Hutchison, to check the payments against the stored data and determine whether a spending limit has been exceeded and prevent the transaction in event the spending is above the limit which reduces fraud and extra cost associated with purchases that may rejected by credit card companies.

Re. Claim 2, Cheong discloses creating a data account number and access code and confirming the credit amount and access code [col. 15 lines 15-18 – see “debit card” which has account number and access code and when it is used the system validates the access code and the card limit before processing further], the method further comprising the steps of: accessing a merchant via a computer network [col. 1 lines 18-27; col. 6 lines 18-50]; performing procedures for on-line purchasing [col. 1 lines 18-27; col.6 lines 18-50]; entering the account number, and entering the access code [Figure 2 and associated description; col. 22 lines 32-67]; electronically routing the data account (account) number and access code to a service provider; and routing a request for funds totaling the dollar amount of the transaction to the credit card issuer [figure 47; col.24 lines 33-56; col. 30 lines 52-64].

Re. Claim 4 & claim 5, claim 4 and claim 5 are rejected with same rational as claim 1.

Re. Claim 6, claim 6 is rejected with same rational as claim 2.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheong and Hutchison, as applied to claims 1 & 5, and in view of Gustin et al (hereinafter Gustin - US 2005/0035193).

Re. Claims 3 & 7, Cheong discloses debiting the financial account of limited access the amount electronically transferred [col. 1 lines 17-27; col. 2 lines 1-13].

Further, Gustin et al (US 2005/0035193) discloses wiring the amounts of the transaction to the merchant less any discount fee [paragraphs 12-14, 141, 178 – see reduced fee]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Cheong and Hutchison and include limitation disclosed by Gustin to improve the payment for online shopping using known wire transferring means to expedite the transaction.

### ***Response to Arguments***

Applicant's arguments with respect to amended claims have been considered but are moot in view of the new ground(s) of rejection.

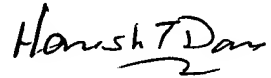
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass  
Primary Examiner  
Art Unit 3692



10/29/07